UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,911	01/10/2001	Hiroshi Ishii	06270004AA	6346

30743	7590	08/04/2004

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ART UNIT	PAPER NUMBER
2611	

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/756,911	ISHII, HIROSHI
	Examiner	Art Unit	
	Brian Shelton	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 January 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 April 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☒ All b)☐ Some * c)☐ None of:

   1.☒ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *6/2/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   This Action is in response to the Application received 10 January 2001.

2.   The Application has been examined. Original claims 1-7 are pending.

The rejections and objections cited are as stated below:

Claim Objections

3.   **Claim 4** is objected to because of the following informalities:

In claim 4, at line 1, "according to claim 1" should be changed to

--according to claim 2-- because the "rate calculation means" recited in

claim 4, line 5 is not disclosed in claim 1. Appropriate correction is

required.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

5.   **Claims 1-8** are rejected under 35 U.S.C. 103(a) as being unpatentable

over Maissel et al. (Maissel), U.S. Patent No. 6,637,029 in view of Bryant et al.

(Bryant), U.S. Patent No. 6,652,615.

Regarding **claim 1**, Maissel discloses a program selection device

(Fig. **2**; Receiving unit **120**) which receives a plurality of programs (col. 10,

lines 54-62) and an EPG (Electronic Program Guide) (program schedule

information; col. 11, lines 7-35; see Figs. **9A-9L**), comprising

a controller (Agent **130**; col. 12, lines 16-22 [determination of

characteristics] and col. 13, lines 35-41 [customization according to

profile]); and

a storage section (memory of profile storage **140** and agent **130**;

col. 10, lines 42-46), and

wherein said storage section stores a past record of the user

viewing programs in association with a plurality of predetermined types of

the programs (col. 12, lines 23-30), and the received EPG (col. 11, lines

48-51; see col. 10, lines 42-46), and

said controller identifies types of the selected program in

accordance with the EPG (characterizing television program currently

being viewed, col. 12, lines 16-34), calculates rates at which the user

views programs in association with each of the types based on the past

record (col. 12, lines 35-43 [viewer profile including determination of

preference strength for program type]), and specifies a type of program

based on the calculated rates (col. 17, line 65 – col. 18, lines 28

[customization according to viewer profile]).

Although Maissel suggests utilizing preference information for selecting

programming or any other kind of customization (see col. 13, lines 35-41,

col. 14, lines 10-16 and col. 14, line 19), Maissel fails to specifically

disclose the controller identifying types of multiplexed elementary streams

and selecting an elementary stream corresponding to the specified type,

as claimed.

However, Bryant, in an analogous art, teaches identifying types of

multiplexed elementary streams and selecting an elementary stream

corresponding to a specified type, of a plurality of elementary streams

which are received together with a selected program (Fig. 6; col. 6, line 57

– col. 7, line 17) for the benefit of providing precise broadcasting of

composite programs to target audiences (see col. 4, lines 10-14).

Accordingly, it would have been obvious to one of ordinary skill in

the art at the time the invention was made to modify the controller of

Maissel to incorporate identifying types of multiplexed elementary streams

and selecting an elementary stream corresponding to a specified type of a

plurality of elementary streams which are received together with a

selected program, as taught by Bryant, for the benefit of providing precise

broadcasting of composite programs to target audiences in a program

selection device.

Regarding **claim 2**, Maissel discloses a program selection device

(Fig. **2**) which receives a plurality of programs (col. 10, lines 54-62) and an

EPG (program schedule information; col. 11, lines 7-35; see Figs. **9A-9L**),

said device comprising:

program receiving means for receiving the program, and the

selected program EPG (Fig. 2; receiving unit **120**; col. 11, lines 48-56);

type identification means for identifying types of the selected

program (characterizing television program currently being viewed, col.

12, lines 16-23);

rate calculation means for calculating rates at which the user views

programs in association with a plurality of program types (col. 12, lines 35-

43 [viewer profile including determination of preference strength for

program type]); and

rate storage means for storing the calculated rates in association

with each of the program types (col. 12, lines 23-30); and

selection means for specifying a program type based on calculated

rates (col. 17, line 65 – col. 18, lines 28 [customization according to viewer

profile]).

Although Maissel suggests utilizing preference information for selecting

programming or any other kind of customization (see col. 13, lines 35-41,

col. 14, lines 10-16 and col. 14, line 19), Maissel fails to specifically

disclose receiving and identifying a plurality of elementary streams and ES

selection means, as claimed.

However, Bryant, in an analogous art, teaches receiving and identifying a plurality of elementary streams (col. 4, lines 20-36) and, further, ES selection means which selects an elementary stream of the plurality of elementary streams received together with a selected program, where the elementary stream corresponds to a specified program type (e.g., viewer profile) (Fig. **6**; col. 6, line 57 – col. 7, line 17) for the benefit of providing precise broadcasting of composite programs to target audiences.

Accordingly it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the programs and selection means of Maissel to incorporate receiving a plurality of elementary streams, identifying types of the plurality of elementary streams, and ES selection means for selecting an elementary stream of the plurality of elementary streams received by the program receiving means, the elementary stream corresponding to the specified program type, as taught by Bryant, for the benefit of providing precise broadcasting of composite programs to target audiences in a program selection device.

The limitation of **claim 3** is encompassed by the teachings of Maissel in view of Bryant, as discussed above relative to claim 2. Specifically, Maissel discloses the rate selection means includes a counter for counting a number of times the user views programs in association with the program types; and said rate calculation means increments, every

time the user selects a program, a value of the counter corresponding

each of the program types by 1, so as to obtain rates based on the

counter (col. 12, lines 35-43, where recording preference strength data

including the number of times programming is watched inherently

discloses a counter for counting the occurrences of viewing).

The limitation of **claim 4** is encompassed by the teachings of

Maissel in view of Bryant, as discussed above relative to claim 2.

Specifically, Maissel discloses selection of programming and other

customizations corresponding to a most-frequently watched program type

based on rate calculation means is selected based on a calculation of the

rate calculation means (col. 12, lines 35-43 [rate calculation]; see col. 13,

lines 35-41, col. 14, lines 10-16 and col. 14, line 19 [customization based

on calculation]). Bryant teaches selection of an elementary stream (col. 6,

line 57 – col. 7, line 17).

As for **claim 5**, Maissel discloses a program selection method for

selecting programming, after receiving a plurality of programs and an EPG

(col. 13, line 35 – col. 14, line 20), the method comprising:

storing a past record of the user viewing programs in association

with program types of the programs (col. 12, lines 23-30) and the received

EPG (col. 11, lines 48-51; see col. 10, lines 42-46); and

identifying a program type of the selected program (characterizing

television program currently being viewed, col. 12, lines 16-23), calculating

rates at which the user views the programs in association with the

program types based on the past record (col. 12, lines 35-43 [viewer

profile including determination of preference strength for program type]),

and specifying a program type of a program based on the calculated rates

(col. 17, line 65 – col. 18, lines 28 [customization according to viewer

profile]).

Although Maissel suggests utilizing preference information selecting

programming or any other kind of customization (see col. 13, lines 35-41,

col. 14, lines 10-16 and col. 14, line 19), Maissel fails to specifically

disclose the program including a plurality of elementary streams and

selecting one elementary stream from the plurality of elementary streams,

as claimed.

However, Bryant, in an analogous art, teaches a selected program

including a plurality of elementary streams and selecting one elementary

stream of a plurality of elementary streams corresponding to a specified

program type (e.g., profile of user) for the benefit of providing precise

broadcasting of composite programs to target audiences (see col. 4, lines

10-14).

Accordingly, it would have been obvious to one of ordinary skill in

the art at the time the invention was made to modify the method of Maissel

to incorporate selected programming including a plurality of elementary

streams and selecting one elementary stream corresponding to the

specified program type, as taught by Bryant, for the benefit of providing

precise broadcasting of composite programs to target audiences in a

program selection method.

The limitation of **claim 8** is encompassed by the teachings of

Maissel in view of Bryant, as discussed above relative to claim 5.

Specifically, Maissel discloses selecting corresponding to a most-

frequently watched program type based on a calculation performed in said

calculating (col. 12, lines 35-43 [viewer profile including determination of

preference strength for program type]). Bryant teaches selecting, of the

plurality of elementary streams which are multiplexed and included in the

program selected by the user, an elementary stream corresponding to a

program type (Fig. **6**; col. 6, line 57 – col. 7, line 17).

Regarding **claim 6**, Maissel discloses a program selection method

for selecting programming or other customization, after receiving a

plurality of programs and an EPG (col. 13, line 35 – col. 14, line 20), said

method comprising:

receiving a program selected by the user (col. 10, lines 54-62) and

the EPG (col. 11, lines 7-35);

identifying a program type of the selected program (characterizing

television program currently being viewed, col. 12, lines 16-23);

calculating rates at which the user views the programs in

association with a plurality of program types (col. 12, lines 35-43 [viewer

profile including determination of preference strength for program type]);

storing the rates which are calculated in association with the

plurality of program types (col. 12, lines 23-30); and

specifying a program type based on the calculated rates (col. 17,

line 65 – col. 18, lines 28 [customization according to viewer profile]).

Although Maissel suggests utilizing preference profile data for selecting

programming or any other kind of customization (see col. 13, lines 35-41,

col. 14, lines 10-16 and col. 14, line 19), Maissel fails to specifically

disclose receiving a program comprising a plurality of elementary streams,

as claimed, and specifying a program type to select one elementary

stream corresponding to a specified program type, as claimed.

However, Bryant, in an analogous art, teaches receiving a program

comprising a plurality of elementary streams and specifying a program

type (e.g., type of ad corresponding to user profile) to select one

elementary stream, corresponding to the specified program type, of the

plurality of elementary streams received for the benefit of providing

precise broadcasting of composite programs to target audiences (see col.

4, lines 10-14).

Accordingly, it would have been obvious to one of ordinary skill in

the art at the time the invention was made to modify the programs and

selection of Maissel to incorporate receiving a plurality of elementary

streams and specifying a program type based on calculated rates to select

one elementary stream, corresponding to the specified program type, of

the plurality of elementary stream received in said receiving in a program

selection method.

The limitation of **claim 7** is encompassed by the teachings of

Maissel in view of Bryant, as discussed above relative to claim 6.

Specifically, Maissel discloses a counter for counting a number of times

the user watches program in association with the program types used in

said storing, and in said calculating, every time the user selects a

program, a value of the counter corresponding to each of the program

types in incremented by 1, and the rates are obtained based on the value

of the counter (col. 12, lines 35-43 where recording preference strength

data including the number of times programming is watched inherently

discloses a counter for counting the occurrences of viewing).

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Bedard, U.S. Patent No. 5,801,747 discloses monitoring user

viewing activity to develop a viewer profile array comprising preferred

categories of programming (Fig. **2**, col. 4, line 27 – col. 5, line 6) and

utilizing the profile to provide content of interest to the viewer (col. 8, line

16 – col. 9, line 3).

Mackinnon, U.S. Patent No. 6,016,158 discloses receiving a

plurality of objects within a stream and selecting objects within the stream

which are identified as being of interest to the user according to a user

profile (col. 2, line 61 – col. 3, line 40; col. 4, line 29 – col. 6, line 23).

7.   The following are suggested formats for either a Certificate of Mailing or
Certificate of Transmission under 37 CFR 1.8(a). The certification may be
included with all correspondence concerning this application or proceeding to
establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of
this procedure will result in such communication being considered as timely if the
established date is within the required period for reply. The Certificate should be
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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning
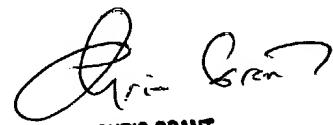facsimile transmissions and mailing, respectively.

8.   Any inquiry concerning this communication or earlier communications from
the examiner should be directed to Brian Shelton whose telephone number is
(703) 305-8714. The examiner can normally be reached on Monday-Friday,
7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, Christopher Grant can be reached on (703) 305-4755.
The fax phone number for the organization where this application or proceeding
is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

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direct.uspto.gov. Should you have questions on access to the Private PAIR

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free).

Brian Shelton
Examiner
Art Unit 2611

BS

CHRIS GRANT
PRIMARY EXAMINER